

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:
TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY
LITIGATION

Docket No. 14 C 1748

Chicago, Illinois
October 24, 2014
9:05 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F. KENNELLY

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stated on the record.

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1 be the judge in the MDL case.

2 Yes, I have changed my mind on stuff, but you would
3 figure that if two years from now in a bellwether case, I rule
4 on a motion for summary judgment that there's no evidence of
5 general causation of cardiovascular incidence, it's a pretty
6 good indication that I'm going to rule the same way in the
7 other, you know, 900 cases in which that comes up. So I think
8 you get to the same place.

9 MR. GLAUBERMAN: Well, I would agree except that the
10 efficiencies are completely lost by doing it that way, by
11 doing it the way that the plaintiffs have proposed.

12 THE COURT: So the efficiencies you're talking about
13 are lost. The efficiencies that they're talking about are not
14 lost because what happens --

15 Now, I don't know what the ruling's going to be. I
16 mean, I guess part -- I will tell you, honestly, part of my
17 concern with this motion -- and I don't say this critically --
18 it's a little bit of a mini summary judgment motion. It kind
19 of is. I mean, you're asking me to make sort of a preliminary
20 indication, yes, this is kind of a weak case and so I should
21 do it this way. I have some sort of visceral discomfort about
22 that just from life experience as a judge.

23 But, you know, the problem on the other side is that
24 if you end up not prevailing -- if the defense ends up not
25 prevailing on the summary judgment, all of a sudden this looks

1 like an incredibly inefficient way of doing things, an
2 incredibly inefficient way of doing things, because we have
3 gone two years down the road, or whatever it is. I get
4 the summary --

5 MR. GLAUBERMAN: It's about a year and a half.

6 THE COURT: No. 2016, right?

7 MR. GLAUBERMAN: I think it's July of -- yes, July of
8 2016.

9 THE COURT: So that's close to two years. I'm not
10 going to rule on it within three days of getting it, okay,
11 just so you know.

12 We have gotten two years down the road, and the
13 discovery on everything else has been on a very long pause
14 button, and then we start. And then we start.

15 MR. GLAUBERMAN: Well, the discovery on the other
16 things is certainly paused. However, under our schedule, it
17 does begin even as the causation expert proceedings are
18 underway. So we're not proposing a schedule, as we did
19 actually earlier in our discussions with plaintiffs, where the
20 other discovery is put off substantially after the Daubert
21 challenges and that sort of thing. That discovery actually
22 gets underway while the Daubert challenges are ongoing.

23 So I see that issue, but there are lots of different
24 ways that this could be sliced and diced. Putting the general
25 causation first doesn't have to result in an extraordinarily

1 All right, take care.

2
3 (Which were all the proceedings had in the above-entitled
4 cause on the day and date aforesaid.)
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8

9 C E R T I F I C A T E

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11 I hereby certify that the foregoing is a true and
12 correct transcript of the above-entitled matter.
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15 /s/ *Laura M. Brennan*

October 24, 2014

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Laura M. Brennan
Official Court Reporter
Northern District of Illinois
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Date